

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**REG-2007-00056**

**June 4, 2008**

**FINAL STATEMENT OF REASONS AND  
UPDATED INFORMATIVE DIGEST  
REGARDING CALIFORNIA LOW COST AUTOMOBILE INSURANCE RATES**

**Rates for Liability, Uninsured Motorists and Medical Payment Coverages for  
Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,  
Humboldt, Inyo, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino,  
Modoc, Mono, Napa, Nevada, Placer, Plumas, San Benito, San Luis Obispo,  
Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity,  
Tuolumne, Yolo, and Yuba Counties**

**INTRODUCTION AND UPDATED INFORMATIVE DIGEST**

On April 9 and April 14, 2008, California Insurance Commissioner Steve Poizner held public hearings to consider current rates for certain counties in the California Low Cost Automobile insurance program that were established in the last two phases of expansion by prior emergency regulations.

Commissioner Poizner has determined, after public hearing and review of all comments, to adopt the rates as originally proposed for this rulemaking matter.

Because the program is established and administered through CAARP, CAARP procedures are applied where appropriate and not inconsistent with the low cost automobile insurance statutes. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Insurance Code Section 11629.7 requires that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of eligible consumers. The plan also contains rules and rates. This plan, approved by the Commissioner, is referenced in Title 10, Section 2498.6 of the California Code of Regulations.

In accordance with these rate-setting procedures and standards, the Commissioner held a public hearing on April 9, 2008 to consider current rates for the expansion counties set by emergency regulations. To ensure that members of the public were given adequate notice and a full opportunity to comment on the proposed regulations, a second public hearing was noticed on February 27, 2008 and subsequently held on April 14, 2008. The public comment period was extended to the same date.

The proposed regulations are intended to implement the Commissioner's final decision as mandated by Insurance Code Section 11629.72, and conform to Certificate of Compliance procedures for rates established for the expansion to the thirty-six counties referenced above by emergency regulations, as authorized by Insurance Code Section 11629.79.

Rulemaking files adopting and readopting such emergency regulations are herein incorporated by reference (CDI File Nos. ER-2007-00003 and ER-2007-00004).

## **STATEMENT OF SPECIFIC PURPOSE AND NECESSITY**

California Insurance Code Section 11629.72(c) requires that CAARP submit to the Commissioner loss and expense data, together with a proposed rate and surcharge for approval. To expedite the program's expansion to the thirty-six additional counties, CAARP proposed rates on July 19, 2007 for twenty counties and October 26, 2007 for the remaining sixteen counties. Details are contained in the application on file with the Commissioner and are available for review.

Recent legislation involving the low cost automobile insurance program (SB 20, Escutia) authorized expansion of the program to all counties, at the Commissioner's discretion, subject to specified procedures. The legislation did not set rates, but authorized the Commissioner to adopt regulations establishing a rate, as emergency regulations.

The rate-setting statutes specify that rates shall be sufficient to cover losses incurred under policies issued under the program and expenses. In assessing loss reserves, the Commissioner shall only allow loss reserves estimated from actual losses in the program or comparable data by a licensed statistical agent, adjusted to reflect coverage provided by the program. Rates shall be set so as to result in no subsidy of the program or subsidy of policyholders in one county by policyholders in any of the other counties.

As adopted by emergency regulations, the annual premiums for the 36 counties, by county, are \$311 for Alpine, \$280 for Amador, \$253 for Butte, \$275 for Calaveras, \$284 for Colusa, \$285 for Del Norte, \$285 for El Dorado, \$288 for Glenn, \$263 for Humboldt, \$271 for Inyo, \$273 for Kings, \$268 for Lake, \$286 for Lassen, \$253 for Madera, \$297 for Marin, \$279 for Mariposa, \$260 for Mendocino, \$292 for Modoc, \$286 for Mono, \$277 for Napa, \$263 for Nevada, \$314 for Placer, \$276 for Plumas, \$274 for San Benito, \$226 for San Luis Obispo, \$252 for Santa Cruz, \$260 for Shasta, \$297 for Sierra, \$259 for Siskiyou, \$304 for Solano, \$291 for Sutter, \$280 for Tehama, \$288 for Trinity, \$279 for Tuolumne, \$286 for Yolo, and \$286 for Yuba. A 25 percent surcharge is added to the base rate for unmarried male drivers ages 19 through 24 years of age.

Annual premiums for optional uninsured motorists coverage for the 36 counties, by county, are currently \$41 for Alpine, \$39 for Amador, \$33 for Butte, \$38 for Calaveras, \$38 for Colusa, \$39 for Del Norte, \$36 for El Dorado, \$38 for Glenn, \$35 for Humboldt, \$38 for Inyo, \$36 for Kings, \$37 for Lake, \$39 for Lassen, \$42 for Madera, \$36 for Marin, \$39 for Mariposa, \$36 for Mendocino, \$40 for Modoc, \$40 for Mono, \$35 for Napa, \$36 for Nevada, \$35 for Placer, \$39 for Plumas, \$37 for San Benito, \$33 for San Luis Obispo, \$32 for Santa Cruz, \$35 for Shasta,

\$41 for Sierra, \$38 for Siskiyou, \$32 for Solano, \$36 for Sutter, \$37 for Tehama, \$39 for Trinity, \$37 for Tuolumne, \$36 for Yolo, and \$41 for Yuba.

For optional medical payments coverage, by county, premiums are currently \$28 for Alpine, \$28 for Amador, \$28 for Butte, \$25 for Calaveras, \$28 for Colusa, \$27 for Del Norte, \$25 for El Dorado, \$26 for Glenn, \$25 for Humboldt, \$27 for Inyo, \$26 for Kings, \$27 for Lake, \$26 for Lassen, \$34 for Madera, \$26 for Marin, \$26 for Mariposa, \$27 for Mendocino, \$27 for Modoc, \$27 for Mono, \$27 for Napa, \$25 for Nevada, \$26 for Placer, \$26 for Plumas, \$25 for San Benito, \$23 for San Luis Obispo, \$25 for Santa Cruz, \$27 for Shasta, \$27 for Sierra, \$25 for Siskiyou, \$28 for Solano, \$27 for Sutter, \$28 for Tehama, \$27 for Trinity, \$26 for Tuolumne, \$26 for Yolo, and \$30 for Yuba.

In accordance with these rate-setting standards, the Commissioner held a hearing to consider existing rates, as currently in effect via emergency regulation, and any proposed alternatives to these rates.

Exhibit E in the program's Plan of Operations specifies annual premiums for insureds, by county, for the liability policy and two optional coverages. Exhibit E reflects the Commissioner's determination as to the appropriate rate for each coverage in each county. Adoption of this regulation is necessary to clearly indicate applicable premiums and surcharges so that all eligible consumers, producers, and participating insurers can become familiar with the applicable rate for each coverage and county.

## **IDENTIFICATION OF STUDIES**

CAARP's rate recommendations in prior emergency rulemaking files (CDI File Nos. ER-2007-00003 and ER-2007-00004), incorporated herein, rely upon the expertise of CAARP's technical staff. Other than the rate proposals and accompanying explanatory memorandum and exhibits, however, no studies have been submitted for this proceeding.

## **SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT**

Adoption of the proposed rates would not mandate the use of specific technologies or equipment or prescribe specific actions or procedures.

## **MANDATES**

The regulations do not impose a mandate on local agencies or school districts.

## **FISCAL IMPACT**

The Insurance Commissioner has determined that the regulations will not result in any cost or significant savings to any state agency or to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will these regulations affect federal funding to the state.

## **ECONOMIC IMPACT ON BUSINESS**

Because the rates apply to private passenger automobile policies, the Insurance Commissioner has determined that the regulations will not have a significant adverse economic impact on businesses, including the ability to compete with businesses in other states. The regulations will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

## **IMPACT ON HOUSING COSTS**

The Insurance Commissioner has determined that the regulations will not affect housing costs.

## **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner has determined that the proposal will not impact businesses, but will affect private persons eligible for a low cost automobile liability policy with respect to the cost of premiums.

## **EFFECT ON SMALL BUSINESS**

The Insurance Commissioner has determined that the regulations will not impact small businesses because insurance companies directly affected do not fit within the definition of small businesses, as set forth in Government Code section 11342.610. Moreover, the regulations simply clarify rates.

## **REASONABLE ALTERNATIVES**

As set forth in this rulemaking file, the Commissioner has determined that no reasonable alternative exists which would be as effective to carry out the statutory mandate and be less burdensome to affected private persons than the proposed regulations.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The Final Statement of Reasons and Updated Informative Digest and text of regulations will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

## **FORM 399**

The Insurance Commissioner has determined that the proposed regulations do not have a fiscal impact on state agencies, local agencies and school districts or federal funding. Therefore, the Fiscal Impact Statement (Form 399), previously signed and included within the rulemaking file, is still accurate.

## **SUMMARY OF AND RESPONSE TO PUBLIC COMMENT**

The Department's summary of and response to public comment is set forth directly below.

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Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity,  
Tuolumne, Yolo, and Yuba Counties**

**Commenter:** Robert Gnaizda, Samuel S. Kang and Kenekchukwu O. Okocha on behalf of the Greenlining Institute

**Date of Comment:** April 14, 2008

**Type of Comment:** Written

**Summary of Comment (page 1, lines 1-5):** The commenter describes the subject of the rulemaking proceeding that the commenter seeks to address.

**Response to Comment:**

Because these comments are not specifically directed at the proposed regulations or to the procedures followed by the Department in proposing the regulations, the comments require no response.

**Summary of Comment (page 1, line 11 through page 3, line 16):** The commenter describes the history of the California Low Cost Automobile program (“CLCA”), the expansion of the CLCA program, as well as the commenter’s view of the number of uninsured motorists. While agreeing that expansion of the CLCA “is a necessary step forward,” this portion of the comment also contains the commenter’s opinion that the CLCA has been a failure. The commenter states that the Commissioner must remedy “fundamental flaws in the structure and the implementation of the CLCA.” This comment also includes remarks that reflect the commenter’s support for the CLCA.

**Response to Comment:**

To the extent that this portion of the comment is in support of the proposed regulations, the comment requires no response. Insofar as the comment could be read to suggest that the expansion to all 58 counties of the CLCA program fails to ensure that low income drivers will

obtain insurance, the commenter misunderstands the purpose of the proposed regulations and therefore no change has been made to the regulations.

The expansion of the CLCA program is a fundamental and necessary action that can only improve, rather than diminish, Californians' access to low cost automobile insurance. While the proposed regulations will improve Californians' access to CLCA insurance, the Commissioner recognizes that these regulations by themselves are not a panacea. Additional efforts must be undertaken, including advertising, education and consumer awareness of the program in order for consumers to derive the full benefit from this program. The Commissioner intends to continue to pursue these additional avenues in order to make consumers aware of this important program.

**Summary of Comment (page 3, line 18 through page 4, line 7):** This portion of the comment describes the commenter's organization and its history of involvement in proceedings similar to this one.

**Response to Comment:**

Because these comments are not specifically directed at the proposed regulations or to the procedures followed by the Department in proposing the regulations, the comments require no response.

**Summary of Comment (page 4, line 9 through line 16):** The commenter describes the strain that uninsured motorists place on the price of insurance and describes the CLCA as a program that was designed to correct the difficulty of obtaining affordable automobile insurance. The commenter also states that the expansion of the CLCA to all counties is not sufficient by itself to accomplish the goals of the CLCA.

**Response to Comment:**

To the extent that this portion of the comment is in support of the proposed regulations, the comment requires no response. Insofar as the comment could be read to suggest that the expansion to all 58 counties of the CLCA program fails to ensure that low income drivers will obtain insurance, the commenter misunderstands the purpose of the proposed regulations and therefore no change has been made to the regulations.

The expansion of the CLCA program is a fundamental and necessary action that can only improve, rather than diminish, Californians' access to low cost automobile insurance. While the proposed regulations will improve Californians' access to CLCA insurance, the Commissioner recognizes that these regulations by themselves are not a panacea. Additional efforts must be undertaken, including advertising, education and consumer awareness of the program in order for consumers to derive the full benefit from this program. The Commissioner intends to continue to pursue these additional avenues in order to make consumers aware of this important program. The commenter's remarks concerning this rulemaking project, however, do not justify the deletion or revision of these regulations.

**Summary of Comment (page 5, line 1 through line 17):** The commenter recounts the origin of the CLCA and the Legislature’s objective to expand the program beyond the pilot program counties of San Francisco and Los Angeles. The commenter acknowledges the Commissioner’s commitment to the CLCA and then asserts that, over the last 9 years, the program has not met the goal of providing affordable insurance to low income drivers.

**Response to Comment:**

To the extent that these comments are not specifically directed at the proposed regulations or to the procedures followed by the Department in proposing the regulations, the comments require no response.

The Commissioner disagrees with the commenter’s suggestion that the CLCA program is not providing affordable insurance to low income drivers. Insofar as the comment suggests otherwise, the comments do not warrant a change to the regulations which expand the availability of low cost automobile insurance to all counties. While the expansion of the Low Cost Automobile program will increase the availability of the program to low-income drivers, the Commissioner recognizes that additional efforts must be made in order to further the goal of ensuring that the program will be accessible to drivers who are eligible. The Commissioner is committed to the furtherance of this goal.

**Summary of Comment (page 6, line 1 through page 7, line 17):** The commenter describes the current laws governing the CLCA, including the duty of an insurer to inform new applicants for automobile insurance of the existence of the CLCA if a person requests a minimum limits or basic limits insurance policy. The commenter also notes that existing statutes do not prohibit insurers from attempting to sell non-CLCA policies to low-income drivers in lieu of the CLCA. The commenter states that the insurance industry has failed to market the CLCA. The commenter states that many low-income drivers are “unsophisticated, limited English-speaking consumers” and that existing laws, including Insurance Code section 11629.745, are therefore unfair and unworkable because they place the burden on the customer to begin the process of determining his/her eligibility for CLCA.

**Response to Comment:**

To the extent that this comment suggests that the Commissioner’s regulations should prohibit insurers from marketing non-CLCA policies to low-income drivers, no change to the regulations is warranted. The commenter cites to no law which would permit the Commissioner to regulate an insurer’s product offering in a manner that would require the insurer to restrict its marketing efforts so that an insurer must market CLCA policies at the exclusion of all other insurance products. The Commissioner’s authority to implement the CLCA program is limited to those powers that are given to him by statute. The Commissioner is committed to working within the limits of those powers to ensure that CLCA policies are available and accessible to eligible persons, including the use of advertising and other educational means to assist consumers in determining their eligibility for the program.

**Summary of Comment (page 7, line 18 through page 8 line 13):** The commenter states that auto insurance is a necessary, but unaffordable product for many drivers. When an insurance company offers a “normal rate” that is not adjusted to conform to the CLCA rates, the rate is not reasonable for the income level of many people. Consequently, whenever an insurer offers an auto insurance product at a price that is above the CLCA rate, the commenter concludes, that rate is excessive. The commenter requests that the Commissioner issue regulations to ensure that the CLCA rate is offered to more low-income drivers in order to prevent excessive rates.

**Response to Comment:**

The Commissioner rejects the notion that any premium offered for a price that is above the price charged for insurance issued through the CLCA program is necessarily excessive. Whether a rate is excessive, within the meaning of Insurance Code section 1861.05, is determined by applying the Commissioner’s prior approval ratemaking formula. (See 10 Cal.Code Regs. §§ 2644.1, et seq.) Many factors that influence a rate are likely to differ from a given CLCA policy, including the breadth of coverage provided and the frequency and severity of loss for a particular insurer’s book of business. The commenter’s discussion of “normal rates” without any explanation of what the hypothetical normal rate would consist of is, therefore, not a useful tool for comparison. No change has been made to the regulations in light of these comments.

Moreover, the commenter’s remarks concerning the “normal rates insurance companies charge without CLCA adjustments” are beyond the scope of the proposed regulations, are not specifically directed at the proposed regulations or to the procedures followed by the Department in proposing the regulations and therefore require no further response.

**Summary of Comment (page 8, line 14 through page 9, line 14):** The commenter states that it will be necessary for the insurance industry to substantively market CLCA policies in order to improve the number of CLCA-insured drivers. While the marketing program of the Department of insurance is well-intentioned, the commenter believes free market principles dictate that the insurance industry is in the best position to most effectively market the CLCA product. Therefore, the Commissioner should promulgate regulations that directly address the need for the insurance industry to directly market and sign up CLCA drivers.

**Response to Comment:**

To the extent that this comment suggests that the Commissioner’s regulations should require members of the insurance industry to engage in particular marketing strategies in order to improve consumers’ awareness of the CLCA product, no change to the regulations is warranted. The commenter cites to no law which would permit the Commissioner to require an insurer to market CLCA policies in a particular manner, other than the manner set forth in Code sections 11629.745 and 11629.75. The Commissioner’s authority to implement the CLCA program is limited to those powers that are given to him by statute. The Commissioner is committed to working within the limits of those powers to ensure that CLCA policies are available and accessible to eligible persons, including the use of advertising and other educational means to assist consumers in determining their eligibility for the program.



**Summary of Comment (page 9, line 16 through page 11, line 14):** The commenter states that, generally speaking, uninsured drivers are improperly characterized by many people as lawbreakers rather than as people who want to buy insurance but cannot afford it. The suggestion that uninsured drivers should be taken off the road is untenable, given the number of uninsured motorists and the fact that the working poor who cannot buy insurance will continue to drive, despite their inability to afford insurance. The commenter asserts that there must be a change in attitude, so that the insurance industry will aggressively market and sell CLCA products to uninsured motorists. This will not only open up the insurance industry to an untapped market, it will also lower the rates of all insured drivers because of the concomitant reduction in uninsured accidents. The CLCA should be reformed, according to the commenter, so that more uninsured motorists can participate in the market to the benefit of all. The uninsured motorist population should be focused upon as part of the solution, rather than labeled as the problem.

**Response to Comment:**

To the extent that these comments are not specifically directed at the proposed regulations or to the procedures followed by the Department in proposing the regulations, the comments require no response.

Nevertheless, the Commissioner agrees and supports the comment insofar as it suggests that it is in everyone's best interest to convert uninsured motorists into insured drivers. By expanding the CLCA program so that it is now available throughout the state, the proposed regulations represent an important step in furtherance of this goal. The commenter's remarks, in this regard, only reinforce the need for the CLCA program to be offered to consumers throughout the state. No change has been made to the regulations in light of this comment.